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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF WASHINGTON

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 vs.
12

13 LUIS MANUEL FARIAS-CARDENAS,

14 Defendant.
15

No. 2:19-CR-00111-WFN-1

MOTION FOR SCHEDULING
ORDER TO GOVERN THIRD-
PARTY FORFEITURE CLAIMS

Hearing Date and Time:
April 19, 2021 at 6:30 p.m.

Without Oral Argument
16

17 The United States of America, by its undersigned counsel, respectfully submits
18 its Motion for Scheduling Order to Govern Third Party Forfeiture Claims, filed in the
19 above entitled case. A proposed Order is submitted with this motion.
20

21 I. RELEVANT PROCEDURAL FACTS
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23 In the plea agreement he entered on September 22, 2020, the Defendant, Luis
24 Manuel Farias-Cardenas, agreed to forfeit the following listed assets and
25 acknowledged that the assets were subject to forfeiture to the United States pursuant
26 to 21 U.S.C. § 853 for the offense Conspiracy to Distribute 500 Grams or More of a
27 Mixture or Substance Containing a Detectable Amount of Methamphetamine and a
28 MOTION FOR SCHEDULING ORDER 1

1 Mixture of Substance Containing a Detectable Amount of Heroin, in violation of 21
2 U.S.C. §§ 846, 841(a)(1), (b)(1)(A)(viii), and (b)(1)(C), to which he pleaded guilty
3 (ECF No. 745 at 13- 18):
4

5 REAL PROPERTY

- 6 1. The real property being forfeited is commonly known as Parcel #:
7 121145000, Moses Lake, Washington, described as follows:

8 All that lot or parcel of land, together with its buildings,
9 appurtenances, improvements, fixtures, attachments and
10 easements, known as Parcel #: 121145000, Moses Lake,
Washington, legally described as follows:

11 LOTS 1 TO 3 BLOCK 2 WHEELER
12 Tax Parcel No. 121145000

- 13 2. The real property being forfeited is commonly known as Parcel #:
14 121146000, Moses Lake, Washington, described as follows:

15 All that lot or parcel of land, together with its buildings,
16 appurtenances, improvements, fixtures, attachments and
17 easements, known as Parcel #: 121146000, Moses Lake,
Washington, legally described as follows:

18 LOT 4 BLOCK 2 WHEELER

19 Tax Parcel No. 121146000

- 20
21 3. The real property being forfeited is commonly known as 14929 NE 4th
22 Street, Moses Lake, Washington, described as follows:

23 All that lot or parcel of land, together with its buildings,
24 appurtenances, improvements, fixtures, attachments and
25 easements, known as 14929 NE 4th Street, Moses Lake,
Washington, legally described as follows:

26 LOTS 5 & 6 BLOCK 2 WHEELER

27 Tax Parcel Nos. 121147000 and 600437000
28

- 1 4. The real property being forfeited is commonly known as 1912 West
2 Atkinson Road, Othello, Washington, described as follows:

3 All that lot or parcel of land, together with its buildings,
4 appurtenances, improvements, fixtures, attachments and
5 easements, located at 1912 West Atkinson Road, Othello,
6 Washington, legally described as follows:

7 TAX #307 IN FU 222, BLK 49, Described as follows: Beginning
8 at the corner of FU 222, thence S52°27'E along the SWly boundary
9 of FU 25.3'; thence S57°25'E 109.1'; thence S57°24'30"E 241' to
10 the TPOB; thence N32°35'30"E 315'; thence S57°24'30"E 155;
11 thence S32°35'30"W 348', more or less, to the SWly boundary of
12 said FU222; thence N40°42'10"W 114.84'; thence N57°24'30"W
13 45' to the TPOB. Containing 1.16 Acres, more or less.

14 Tax Parcel No. 2100492220300

- 15 5. The real property being forfeited is commonly known as 798 South
16 Thacker Road, Othello, Washington, described as follows:

17 All that lot or parcel of land, together with its buildings,
18 appurtenances, improvements, fixtures, attachments and
19 easements, located at 798 South Thacker Road, Othello,
20 Washington, legally described as follows:

21 TAX #118 IN FU 76, BLK 49 LYING W. OF THACKER ROAD,
22 Described as follows: that ptn of FU 76, Blk 49 as shown on the
23 7th revision of final plat, lying in the S1/2 of 8-15-29. Beginning at
24 the SW corner of said FU; thence N0°36'10"W along the West
25 boundary of said Unit 100'; thence N71°45'E 591', more or less, to
26 the centerline of the county road known as Thacker Rd; thence
27 SEly along said centerline 303', more or less, to the South line of
28 said section; thence Wly along said South line 675'; more or less,
 to the point of beginning.

 Tax Parcel No. 2100490760400

 Thereafter, as required by Fed. R. Crim. P. 32.2(6) and 21 U.S.C. § 853(n)(1),
the United States sent notice of the pending forfeiture to potential claimants. Based

1 upon the September 23, 2020, notice date, the claim deadline was October 23, 2020.

2 *See* ECF No. 909.

3 On October 20, 2020, Maria de J Farias, claimed an interest in the following
4 real properties: Parcel #: 121145000, Moses Lake, Washington; Parcel #: 121146000,
5 Moses Lake, Washington; and, 14929 NE 4th Street, Moses Lake, Washington. ECF
6 No. 781.
7

8 On October 22, 2020, Juan and Nancy Aguilar (hereinafter collectively the
9 “Augilars”), claimed an interest in 1912 West Atkinson Road, Othello, Washington.
10 ECF No. 784.
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12 II. LEGAL AUTHORITY

13 The criminal forfeiture process on third-party claims is governed by Fed. R.
14 Crim. P. 32.2(c) and 21 U.S.C. § 853(n). To resolve any factual issues presented by a
15 third-party claim, the Court may permit discovery and entertain motions, in accord
16 with the Federal Rules of Civil Procedure, pursuant to Fed. R. Crim. P. 32.2(c)(1)(B).
17 If the claim is not resolved through discovery and motions, the Court conducts a
18 hearing pursuant to 21 U.S.C. § 853(n)(2) & (4) – (6).
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22 III. ARGUMENT

23 In support of her claim, Ms. Farias simply states that she “claims an ownership
24 interest in the defendant property in this matter, such claim being superior to that of
25 the United States of America and equal to or superior to that of Luis Faris.” ECF No.
26 781 at 2. Other than property documents and marriage information, no additional
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28

1 factual information is provided by Ms. Farias in support of her claim. As such,
2 discovery is needed for the United States to determine the validity, if any, of Ms.
3 Farias's claim.

4
5 The Aguilers claim that on or around March 11, 2011, they entered into an
6 unrecorded contract with Luis M. Farias for the sale of the property located at 1912
7 West Atkinson Road, Othello, Washington. ECF No. 784 at 2. The Aguilers claim that
8 the subject property sold for \$200,000, with \$10,000 as a down payment and the
9 remaining balance payable in monthly installments of \$850 per month. *Id.* The
10 Aguilers further allege that Farias has paid a total of \$146,700 under the real estate
11 contract with a remaining balance of \$93,017.73. *Id.* at 3. Because the Aguilers'
12 alleged interest in the property is based on an admittedly unrecorded contract,
13 discovery is necessary for the United States to ascertain the legitimacy of the
14 Aguilers' claim.

15
16 Because the United States cannot assess the validity of Ms. Farias's and the
17 Aguilers' claims based on the material they have submitted, additional discovery will
18 be required. For this reason, the United States moves the Court, pursuant to Fed. R.
19 Crim. P. 32.2(c)(1) and 21 U.S.C. § 853(n), to set a discovery schedule for Ms.
20 Farias's claim and the Aguilers' claim, followed by a date for motions and a court
21 hearing.¹

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27 ¹ The claim filed by Ms. Farias includes a jury demand. ECF No. 781 at 1. However, a
28 jury demand is not permitted for an ancillary forfeiture claim such as the one filed by

1 Specifically, the United States requests the Court allow the parties 4 months for
2 discovery, followed by a 30-day date for dispositive motions and subsequent hearing
3 dates for each claim. The hearings will only be necessary if the United States is unable
4 to resolve the claim through discovery and motions. A proposed scheduling order is
5 filed herewith.
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8 DATED: March 19, 2021

9 Joseph H. Harrington
10 Acting United States Attorney

11 s/ Brian M. Donovan

12 Brian M. Donovan
13 Assistant United States Attorney
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27 Ms. Farias. 21 U.S.C. § 853(n)(2) (“The hearing shall be held before the court alone,
28 without a jury”).

CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following CM/ECF participant(s):

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s/ Brian M. Donovan

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